

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU**

**FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929**

**Crl.Rev.Pet.No. 616 of 1999()**  
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**CRA.316/1997 of V ADDL.SESIONS COURT, ERNAKULAM  
CC.653/1995 of JUDL.MAGISTRATE OF FIRST CLASS-II, KOCHI  
.....**

**REVN. PETITIONER: APPELLANT/ ACCUSED**  
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**SASI, S/O.KUTTAPPAN, MALERI  
VEETIL, KENNADIMUKKU,  
THRIKKAKKARA VILLAGE**

**BY ADV. SRI.S.NIRMAL KUMAR**

**RESPONDENT/ RESPONDENT**  
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**STATE REP.BY PUBLIC  
PROSECUTOR, HIGH COURT OF  
KERALA, ERNAKULAM.**

**BY PUBLIC PROSECUTOR SRI.AMJAD ALI**

**THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD  
ON 06/07/2007, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:**

**K.R.UDAYABHANU, J**

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Crl.R.P.No.616 of 1999  
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Dated this the 6<sup>th</sup> day of July, 2007

**O R D E R**

The revision petitioner is the accused in C.C.No.653/95 with respect to the offence under Sections 279, 304(A) IPC and Section 134 (a) & (b) read with 187 of M.V.Act and stands convicted and sentenced to undergo R.I. for one year for the offence under Section 304(A) IPC and to pay fine of Rs.750/- and in default, to undergo simple imprisonment for 45 days for the offence under Section 279 IPC. He was acquitted for the offence under Section 134(a) and (b) read with 197 IPC.

2. The prosecution case is that on 30.1.1994, at about 1.30 p.m., the accused drove a stage carriage bus bearing registration No.KDE-885 through Kumbalangy-Perumpadappe road in a rash and negligent manner and hit on a bicycle ridden by CW2 with Tony sitting in the pillion seat and in the impact Tony sustained injuries and succumbed to death.

3. The evidence adduced in the matter consisted the testimony of PWs' 1 to 20 and Exts. P1 to P15. It is the case of

the defence that on seeing the bus PW1 and Tony was riding the bicycle jumped out of the bicycle and the bicycle swerved and hit on the bus.

4. All the same, on a consideration of evidence adduced in the matter, both the courts below have concurrently found that it has been established that the vehicle was driven by the accused in a rash and negligent manner, endangering human life.

5. The counsel for the revision petitioner has only sought for modification of sentence pleading for leniency on the ground that the incident has taken place in 30.1.1994 and that about 13 years have elapsed since the commencement of the proceedings and the accused was so far facing the criminal proceedings and living under the shadow of impending imprisonment.

6. In the circumstances and considering the long delay, I find that the sentence is liable to be modified. Hence, the sentence imposed for the offence under Section 304(A) IPC is modified to imprisonment till the rising of the court and to pay a compensation of Rs.25,000/- to the legal representatives of the deceased and in default, to undergo simple imprisonment for six

months. The revision petitioner is granted three months' time to pay the amount of compensation. He shall appear before the Judicial First Class Magistrate Court-II, Kochi on 16.10.2007 to receive the sentence.

The criminal revision petition is disposed of accordingly.

**K.R.UDAYABHANU,  
JUDGE**

csl